

UNITED STATES BANKRUPTCY COURT  
DEPARTMENT 2  
**JUDGE LOUISE DeCARL ADLER, PRESIDING**  
**THURSDAY, DECEMBER 4, 2014**

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**11:00 AM**

**1 - 03-11155-LA      Ch 7      JERRY L. & DONNA L. ICENHOWER**  
**ADV: 06-90369      KISMET ACQUISITION, LLC v. JERRY L. ICENHOWER & DONNA L.**  
**ICENHOWER, ET AL & GERALDINE VALDEZ & ENRIQUE**  
**HERNANDEZ & PATRICK MARTIN**

- 1) PRE-TRIAL STATUS CONFERENCE ON BK APPEAL NOS: 1,2,3,4,5,6,7 (Fr 8/28/14) (Fee determination)
- 2) STATUS CONFERENCE ON APPLICATION FOR BRIEFING AND HEARING ON PLAINTIFF'S SUPPLEMENTAL REQUEST RE: (I) KISMET'S EXISTING APPLICATIONS FOR FEES AND COSTS PURSUANT TO VARIOUS SANCTIONS ORDERS; AND (II) KISMET'S REQUEST FOR FEES ON APPEAL FILED BY ALI M.M. MOJDEHI

ATTORNEY: ALI M.M. MOJDEHI (KISMET ACQUISITION, LLC)  
ATTORNEY: JEFFREY D. CAWDREY (MARTHA BARBA DE LA TORRE)

02:00 PM

1 - 14-03929-LA Ch 7 GAMES, MOLTEN INC.

ADV: 14-90161 ICW PLAZA HOLDINGS, LLC v. LESLIE GLADSTONE, TRUSTEE

PRE-TRIAL STATUS CONFERENCE

TRUSTEE: LESLIE T. GLADSTONE

ATTORNEY: JEFFREY ISAACS (ICW PLAZA HOLDINGS, LLC)

2 - 14-05590-LA Ch 7 ROBYN EILLEN PROIETTE

MOTION FOR REDEMPTION FILED BY JOHN A. VARLEY ON BEHALF OF ROBYN EILLEN PROIETTE (Fr 11/20/14)

**Tentative Ruling:** This matter was continued to this calendar for submission of an agreement for redemption of the vehicle. If one is reached in advance of this hearing, notify the courtroom deputy and appearances will be excused.

ATTORNEY: JOHN A. VARLEY (ROBYN EILLEN PROIETTE)

ATTORNEY: LENNIE ANN ALZATE (ROBYN EILLEN PROIETTE)

3 - 14-07758-LA Ch 7 IRMA ROSALBA GINES

REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND TOYOTA MOTOR CREDIT CORPORATION

**Tentative Ruling:** Motion to Reaffirm Debt to Toyota Motor Credit **DENIED**. Based on Schedules I and J originally filed in this bankruptcy, a presumption of undue hardship exists which the debtor(s) has not rebutted. Debtor(s) must explain the differences between Part D income/expenses and those on originally filed Schedules I and J. If debtor(s) still desires to reaffirm this debt, the court will give debtor(s) a **ONE TIME CONTINUANCE** to file a **declaration under penalty of perjury** explaining the differences between Part II and the originally filed Schedules I and J and attaching to the declaration **new Schedules I and J showing current income and expenses**. Court notes that debtor(s) original schedules show a deficit of income/expenses of in excess of \$1,000/mo. Debtor must explain the difference between her Part II (Reaffirmation Agreement) income and the information in her original I and J schedules.

ATTORNEY: LARISSA L. LAZARUS (IRMA ROSALBA GINES)

02:00 PM

4 - 14-06034-LA Ch 7 MURRAY DAVID WEBB

REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND AMERICAN HONDA FINANCE CORPORATION

**Tentative Ruling:** Motion to Reaffirm Debt to American Honda Finance **DENIED**. Based on Schedules I and J originally filed in this bankruptcy, a presumption of undue hardship exists which the debtor(s) has not rebutted. Debtor(s) must explain the differences between Part D income/expenses and those on originally filed Schedules I and J. If debtor(s) still desires to reaffirm this debt, the court will give debtor(s) a **ONE TIME CONTINUANCE** to file a **declaration under penalty of perjury** explaining the differences between Part II and the originally filed Schedules I and J and attaching to the declaration **new Schedules I and J showing current income and expenses**.

Court notes that debtor(s) original schedules show a deficit of income/expenses of in excess of \$550/mo. His current income/expenses show a deficit of income/expenses of \$323/mo. If debtor(s) cannot show sufficient income at present to pay normal monthly living expenses plus this vehicle payment, Court strongly urges debtor(s) NOT to request a continued hearing. If debtor is relying on lawsuit settlement proceeds for his support, his declaration must explain how he will make the monthly payments using these proceeds.

ATTORNEY: JAMES R. JEFFERIS (MURRAY DAVID WEBB)

5 - 12-09140-LA Ch 7 ERIKA LOUISE RAYNES

MOTION TO COMPEL DEBTOR'S COOPERATION WITH TRUSTEE AND DETERMINE EXTENT OF TRUSTEE'S LIEN IN MARITAL SETTLEMENT AGREEMENT FILED BY TRUSTEE

**Tentative Ruling:** Motion **GRANTED IN PART; DENIED IN PART**.

Court **grants** the trustee a lien in new MSA marital property awarded to the debtor that is property of the estate, subject to the debtor's right to claim amended exemptions. *See, Law v. Siegal*, 134 S. Ct. 1188 (2014). Court **denies** the trustee a lien in marital property which is established as property excluded from the debtor's estate (e.g., the debtor's share of properly qualified ERISA plans, or educational plans and support payments).

Court makes no ruling at this time as to trustee's entitlement to a lien on the \$17K to be paid by Fecher to debtor's attorney as it is unclear whether this sum is to be paid out of Fecher's portion of the community property which, if so, would not be property of the debtor's estate.

ATTORNEY: DAVID G. WEIL (ERIKA LOUISE RAYNES)

ATTORNEY: THOMAS B. GORRILL (ERIKA LOUISE RAYNES)

- 1) FINAL APPLICATION FOR COMPENSATION & REIMBURSEMENT OF EXPENSES FOR HURON LEGAL, CONSULTANT, PERIOD: 12/12/2011 TO 6/27/2014, FEE: \$ 23,228.00, EXPENSES: \$75.37

**Tentative Ruling:** Court has reviewed First and Final Application for Compensation and Expense Reimbursement filed by computer forensic consultant for the Ch. 7 trustee and finds services necessary and charges for same reasonable. Court awards amounts requested in full but does not authorize same for payment.

This estate is massively insolvent on an administrative basis and Court can find no order authorizing applicant to have previously received \$5987.80 in partial satisfaction of his fees. These fees previously paid to applicant (whether with or without a Court order) appear to be substantially more as a percentage of unpaid total fees than those that will be received by other administrative claimants, including the Trustee. Trustee is directed to confer with applicant and arrive at an appropriate surcharge of this applicant (given that there are also deferred filing fees for adversary proceedings which remain unpaid as well as other substantial administrative expenses which are the subject of applications before the Court today).

When the appropriate surcharge is determined, the Trustee shall prepare and lodge an order based on this ruling, awarding fees but surcharging the amounts previously received by applicant.

- 2) FIRST AND FINAL APPLICATION FOR COMPENSATION & REIMBURSEMENT OF EXPENSES FOR ALAN MYERS, ACCOUNTANT, PERIOD: 6/3/2011 TO 11/6/2014, FEE: \$ 61,086.00, EXPENSES: \$165

**Tentative Ruling:** Court has reviewed First and Final Application for Compensation and Expense Reimbursement filed by accountant for the Ch. 7 trustee and finds services necessary and charges for same reasonable. Court awards amounts requested in full, however, does not authorize these fees for payment at this time. This estate is massively insolvent on an administrative basis. Trustee is directed to confer with all administrative claimants and arrive at an appropriate percentage of payment based on all administrative claims against this estate.

As this application is unopposed, Mr. Myers is excused from attending this hearing. Trustee is to submit an order approved as to form by applicant.

- 3) FIRST AND FINAL APPLICATION FOR COMPENSATION & REIMBURSEMENT OF EXPENSES FOR LAW OFFICES WILLIAM FENNEL, APLC ATTORNEY FOR TRUSTEE, PERIOD: 5/23/2011 TO 12/4/2014, FEE: \$ 646,691.00, EXPENSES: \$29,685.55

**Tentative Ruling:** Court has reviewed First and Final Application for Compensation and Expense Reimbursement filed by counsel for the Ch. 7 trustee and finds services necessary and charges for same reasonable. Court awards amounts requested in full, however, does not authorize these fees for payment at this time. This estate is massively insolvent on an administrative basis. Trustee is directed to confer with all administrative claimants and arrive at an appropriate percentage of payment based on all administrative claims against this estate.

As this application is unopposed, Mr. Fennell is excused from attending this hearing. Trustee is to submit an order approved as to form by applicant.

ATTORNEY: Gregory A. Akers (Gregory A. Akers)  
ATTORNEY: Barbara R. Gross (Gregory A. Akers)  
ATTORNEY: William P. Fennell (Gregory A. Akers)

**02:00 PM**

**7 - 14-05059-LA Ch 7 VICTOR SAMANIEGO**

MOTION RE: QUIET TITLE FROM ALL PERSONS UNKNOWN, CLAIMING ANY ILLEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN PROPERTY DESCRIBED IN THE COMPLAINT ADVERSE TO DEBTOR'S TITLE, MOVANT HAS TAINTED THE COURT WITH FROUD, MOVANT HAS TAINTED THE COURT WITH FRAUD AND DECEPTION

**Tentative Ruling:** Motion **DENIED**. Debtor's motion requests an order quieting title to the debtor's real property and for damages and sanctions against Bank of NY Mellon and other equitable relief.

The relief sought by debtor must be sought by an adversary proceeding (See FRBP 7003) or litigated in a state court action. Debtor has been discharged and the subject property of the debtor's motion abandoned (See ECF #35, 39). Apparently debtor has already filed an adversary proceeding against creditor, alleging the same facts as contained in the motion but is refusing to withdraw this motion regardless of its procedural impropriety. Debtor ignores Court's prior tentative ruling on this same issue. (See ECF #46).

Further, debtor alleges no grounds for sanctions (no legal or statutory basis for same) therefore, his request for sanctions is likewise denied.

**8 - 14-05726-LA Ch 7 CLAUDIA H. LOPEZ**

REAFFIRMATION AGREEMENT BETWEEN DEBTOR AND TOYOTA MOTOR CREDIT CORPORATION (Fr 11/13/14)

**Tentative Ruling:** **NEW TENTATIVE RULING FOR HEARING OF DEC. 4, 2014:**

Motion to Reaffirm Debt to Toyota Motor Credit Corp. **GRANTED**. Debtor has adequately explained the differences between income and expenses originally shown when bankruptcy filed and those shown on Part D of this reaffirmation agreement. Additionally, she has filed letters attesting to her receipt of child support and assistance from a close friend to supplement her income, making these payments now affordable. As this motion is unopposed, debtor is excused from attending this hearing. Court will prepare order approving reaffirmation.

**9 - 11-00806-LA Ch 7 SILVANA DIGRIGOLI**

**ADV: 13-90166**

**LESLIE GLADSTONE, TRUSTEE v. SANTO DIGRIGOLI & SILVANA DIGRIGOLI**

MOTION TO DISMISS COMPLAINT FILED BY TRUSTEE

**Tentative Ruling:** Motion **GRANTED**. Unopposed. Pursuant to FRCivP 41(a)(2) Court may dismiss an adv. pro. at the plaintiff's request on terms the Court considers proper. Here, the motion is unopposed and there is an order requiring direct payment to the Ch. 7 trustee of the sale proceeds of the realty. No reason for this adversary to continue.

No appearances required. Submit order.

ATTORNEY: CHRISTIN A. BATT (LESLIE GLADSTONE, TRUSTEE)  
ATTORNEY: DREW L. LYMAN (SILVANA DIGRIGOLI)  
ATTORNEY: DANIEL R. FORDE (SANTO DIGRIGOLI)

**02:00 PM**

**10 - 12-09553-LA      Ch 11    SECURE INTERNET COMMERCE NETWORK, INC.**

OBJECTION TO CLAIM NO. 21, STUART SCHAFFER FILED BY JENNIFER E. DUTY (Fr 8/28/14)

Tentative Ruling: **MATTER CONTINUED TO DEC. 18, 2014** **at 2:00 p.m.** to allow time to run on a Notice of Intended Action.

If the notice period runs without objection, parties to notify courtroom deputy before continued hearing and matter will go off calendar.

Appearances excused at this hearing.

ATTORNEY: JENNIFER E. DUTY (JEANNE GODDARD, CHAPTER 11 TRUSTEE)  
US TRUSTEE: KRISTIN MIHELIC  
ATTORNEY: CRAIG E. DWYER (SECURE INTERNET COMMERCE NETWORK, INC.)

- 1) FIRST AND FINAL APPLICATION FOR COMPENSATION & REIMBURSEMENT OF EXPENSES FOR R DEAN JOHNSON, ACCOUNTANT, PERIOD: 3/3/2014 TO 10/6/2014, FEE: \$ 1387.00, EXPENSES: \$182.82

**Tentative Ruling:** **MATTER CONTINUED TO JAN. 15, 2015 at 2:00 p.m.** to be heard after objection to claim of Ciena. Ciena claims that all funds in the estate are its cash collateral and that payment of fees from these funds on hand is impermissible unless trustee is successful in pending claim objection or trustee brings a Sec. 506(c) motion to surcharge. Trustee and other administrative claimants have not responded to Ciena's objection.

Court concurs with Ciena's analysis; hence, fee applications are premature as there may be no funds in this estate with which to pay them.

Applicant's attendance at this hearing is excused.

- 2) FIRST AND FINAL APPLICATION FOR COMPENSATION & REIMBURSEMENT OF EXPENSES FOR RONALD STADTMUELLER, TRUSTEE, PERIOD: 11/15/2012 TO 10/15/2014, FEE: \$ 3,500.00, EXPENSES: \$30.96

**Tentative Ruling:** **MATTER CONTINUED TO JAN. 15, 2015 at 2:00 p.m.** to be heard after objection to claim of Ciena. Ciena claims that all funds in the estate are its cash collateral and that payment of fees from these funds on hand is impermissible unless trustee is successful in pending claim objection or trustee brings a Sec. 506(c) motion to surcharge. Trustee and other administrative claimants have not responded to Ciena's objection.

Court concurs with Ciena's analysis; hence, fee applications are premature as there may be no funds in this estate with which to pay them.

Applicant's attendance at this hearing is excused.

- 3) FIRST AND FINAL APPLICATION FOR COMPENSATION & REIMBURSEMENT OF EXPENSES FOR WILLIAM FENNELL, ATTORNEY FOR TRUSTEE, PERIOD: 1/15/2013 TO 12/4/2014, FEE: \$ 28,067.50, EXPENSES: \$146.30

**Tentative Ruling:** **MATTER CONTINUED TO JAN. 15, 2015 at 2:00 p.m.** to be heard after objection to claim of Ciena. Ciena claims that all funds in the estate are its cash collateral and that payment of fees from these funds on hand is impermissible unless trustee is successful in pending claim objection or trustee brings a Sec. 506(c) motion to surcharge. Trustee and other administrative claimants have not responded to Ciena's objection.

Court concurs with Ciena's analysis; hence, fee applications are premature as there may be no funds in this estate with which to pay them.

Applicant's attendance at this hearing is excused.

ATTORNEY: Ronald E. Stadtmueller (Ronald E. Stadtmueller)  
ATTORNEY: DOLORES CONTRERAS (LEVIMAR, LLC, Levimar, LLC)  
ATTORNEY: William P. Fennell (Ronald E. Stadtmueller)

02:00 PM

12 - 14-07214-LA Ch 7 ALBERT J GARCIA & SOFIA I VILLANUEVA

MOTION FOR RELIEF FROM AUTOMATIC STAY FILED BY CAPITAL ONE R/S  
MRG-1

**Tentative Ruling:** Motion for Relief from Stay **GRANTED**. Court accepts that debtors (based on their declaration under penalty of perjury) have no idea who their purported grantor Ray Grimm may be and there statements that they have no interest in the property for which stay relief is sought. However, Court also surmises that creditor Capital One has a title problem with this "wild deed" and requires a court order to clear that title.

Accordingly, Court will grant stay relief *in rem* as to this property to which the debtors should not object as they do not own the property. However, Court admonishes Mr. Lafreniere, Capital One's vice-president, who signed the declaration in support of this motion, for making allegations of conspiracy, bad faith and a fraudulent scheme involving the debtors without any more evidence than his bald assertion on "information and belief". There is no evidence that any discovery was undertaken by declarant before making these insulting allegations.

If counsel for the debtors is prepared to accept the tentative ruling, he should notify counsel for Capital One and the courtroom deputy and appearances will be excused. Counsel for Capital One shall prepare and lodge the order in accordance with the local rules.

ATTORNEY: DAVID S. GREENBERG (ALBERT J GARCIA, SOFIA I VILLANUEVA)



**02:30 PM**

**1 - 14-07189-LA      Ch 11    CHARLES ANDREW**

ORDER RE: CHAPTER 11 PETITION 1) SETTING STATUS CONFERENCE; 2) SETTING COMPLIANCE DEADLINES; AND 3) SETTING SANCTIONS, IF APPROPRIATE, INCLUDING DISMISSAL, CONVERSION OR APPOINTMENT OF A CHAPTER 11 TRUSTEE OR EXAMINER BECAUSE OF NONCOMPLIANCE WITH ABOVE-REFERENCE REQUIREMENTS (Fr 10/30/14)

**2 - 11-05316-LA      Ch 7      RICHARD L. DEHART**

(to be w/drawn re: Hacoheh) DEBTOR'S MOTION FOR DAMAGES AND SANCTIONS AGAINST WILLIARD MICHLIN & ALON HACOHEH, ESQ. FOR VIOLATION OF THE DISCHARGE ORDER FILED BY JULIAN MCMILLAN ON BEHALF OF RICHARD L. DEHART (Fr 11/20/14)

ATTORNEY: JULIAN MCMILLAN (RICHARD L. DEHART)